

# New regulations for employers posting employees to Poland

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## Introduction

On June 18 2016 the new Act on Posting Employees within the Framework of the Provision of Services entered into force (June 10 2016, Journal of Laws 2016, Item 868).

The act implements EU Directive 2014/67/EC (May 15 2014) on the enforcement of EU Directive 96/71/EC (May 15 2014) concerning the posting of employees in the framework of the provision of services.

This act aims to guarantee an appropriate level of protection for posted employees. In particular, it determines the terms and conditions of their employment in Poland, as well as the principles of administrative cooperation between competent Polish authorities with other EU member states. However, the act also introduces a number of obligations for foreign employers which post employees to Poland.

## Obligation to provide minimum working conditions

An employer which posts an employee to Poland must ensure that employment conditions are no less favourable than those prescribed in the Labour Code and other legislation governing the rights and obligations of employees regarding:

- standard working hours;
- daily and weekly rest periods;
- holiday leave;
- minimum wage and additional remuneration for overtime;
- health, safety and hygiene at work;
- protective measures for pregnant women and women on maternity leave;
- the employment of children and young people; and
- equality of treatment and non-discrimination.

This obligation had been previously set forth in the Labour Code and has now been moved to the act.

## Obligation to appoint a representative

Employers must appoint a person residing in Poland during the period of posting to act as an agent

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with the State Labour Inspectorate and receive documents and notices.

### **Disclosure obligation**

Employers are now also obliged to provide information to the State Labour Inspectorate – including submitting a statement regarding the posted employee containing the required details to inspect the workplace no later than the date on which service commenced. The inspectorate should be notified about any amendment to the details of the notification.

### **Keeping records**

Employers are required to keep certain documents concerning posted employees on paper or in an electronic form, including:

- a copy of the employment contract;
- documentation concerning payroll; and
- working times records.

### **Access to documents**

At the request of the inspectorate, employers are required to provide the authority with the above-mentioned documents together with their Polish translation – this applies both to the posting period and to the two-year period following completion of work by the posted employee.

### **Penalties**

Failure to comply with obligations may trigger a fine of up to PLN30,000 (approximately €7,000). The fine is always imposed on the guilty individual within the employer's organisation and not the entity as such.

### **Interim provisions**

In the case of posting employees to Poland on the act's date of entry into force, the posting employer has three months from that date to fulfil the information obligation and meet the record-keeping requirements.

### **Comment**

To date, the legal framework entitling the inspectorate to inspect whether the minimum standards of employment are being respected has been materially deficient. The act therefore contributes to the improvement of working conditions for foreign employees in Poland, while making it more onerous for employers.

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